

## Federal Deposit Insurance Corporation

## § 337.6

regional director (Division of Supervision and Consumer Protection (DSC)) obtain, for good cause shown, not more than two additional one-year periods to come into compliance.

(5) For the purposes of paragraph (c) of this section, the definitions of the terms used in Federal Reserve Board Regulation O shall apply including the exclusion of executive officers of a bank's parent bank holding company and executive officers of any other subsidiary of that bank holding company from the definition of executive officer for the purposes of complying with the loan restrictions contained in section 22(g) of the Federal Reserve Act. For the purposes of complying with § 215.5(d) of Federal Reserve Board Regulation O, the reference to "the amount specified for a category of credit in paragraph (c) of this section" shall be understood to refer to the amount specified in paragraph (c)(2) of this § 337.3.

(Approved by the Office of Management and Budget under control number 3064-0108)

[47 FR 47003, Oct. 22, 1982, as amended at 48 FR 42971, Sept. 21, 1983; 57 FR 7649, Mar. 4, 1992; 57 FR 17850, Apr. 28, 1992; 57 FR 28457, June 25, 1992; 59 FR 66668, Dec. 28, 1994]

### § 337.4 [Reserved]

### § 337.5 Exemption.

Check guaranty card programs, customer-sponsored credit card programs, and similar arrangements in which a bank undertakes to guarantee the obligations of individuals who are its retail banking deposit customers are exempted from § 337.2: *Provided, however*, That the bank establishes the creditworthiness of the individual before undertaking to guarantee his/her obligations and that any such arrangement to which a bank's principal shareholders, directors, or executive officers are a party be in compliance with applicable provisions of Federal Reserve Regulation O (12 CFR part 215).

[50 FR 10495, Mar. 15, 1985]

### § 337.6 Brokered deposits.

(a) *Definitions.* For the purposes of this § 337.6, the following definitions apply:

(1) *Appropriate Federal banking agency* has the same meaning as provided under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(2) *Brokered deposit* means any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.

(3) *Capital categories.* (i) For purposes of section 29 of the Federal Deposit Insurance Act and this § 337.6, the terms *well capitalized*, *adequately capitalized*, and *undercapitalized*,<sup>11</sup> shall have the same meaning as to each insured depository institution as provided under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate federal banking agency for that institution.<sup>12</sup>

(ii) If the appropriate federal banking agency reclassifies a well capitalized insured depository institution as adequately capitalized pursuant to section 38 of the Federal Deposit Insurance Act, the institution so reclassified shall be subject to the provisions applicable to such lower capital category under this § 337.6.

(iii) An insured depository institution shall be deemed to be within a given capital category for purposes of this § 337.6 as of the date the institution is notified of, or is deemed to have notice of, its capital category, under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate federal banking agency for that institution.<sup>13</sup>

<sup>11</sup>The term *undercapitalized* includes any institution that is *significantly undercapitalized* or *critically undercapitalized* under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.

<sup>12</sup>For the most part, the capital measure terms are defined in the following regulations: FDIC—12 CFR part 325, subpart B or 12 CFR part 324, subpart H, as applicable; Board of Governors of the Federal Reserve System—12 CFR part 208; and Office of the Comptroller of the Currency—12 CFR part 6.

<sup>13</sup>The regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the federal banking agencies generally provide that an insured depository institution is deemed to have been notified of its capital levels and its capital category as of the most recent date: (1) A Consolidated Report of Condition and Income is required

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